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6
7 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF WASHINGTON (RICHLAND)

9 MICHELLE VIDALES, an
individual,

10 Plaintiff,

11 v.

13 LUMIO HX, INC., a Utah Company,
14 PAUL RHOTON, in his individual
15 and corporate capacity and the
marital community thereof,

16 Defendants.

Case No. 4:23-CV-5006-SAB

17
18 **JOINT STATUS REPORT AND**
PROPOSED DISCOVERY
PLAN

19 Pursuant to the Notice Setting Scheduling Conference (Dkt. #14) and Fed.
20 R. Civ. P. 26(f) Plaintiff Michelle Vidales (“Ms. Vidales” or “Plaintiff”) and
21 Defendants Lumio HX, Inc. (“Lumio”) and Paul Rhoton (“Defendant Rhoton”)
22 (collectively, “Defendants”), by and through their respective counsel of record,
23 hereby jointly submit this combined Joint Status Report and Discovery Plan.

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1 1. **Whether service is complete.**

2 Yes.

3 2. **Whether jurisdiction, venue, and standing are proper.**

4 Yes.

5 3. **Whether the Parties consent for this matter to be tried before a**
6 **magistrate judge.**

7 The Parties do not consent to try this matter before a magistrate judge.

8 4. **The nature and basis of the claims.**

9 Plaintiff was previously hired at Defendant Lumio. While at Lumio,
10 Plaintiff alleges having had various interactions with Defendant Rhoton that
11 constituted sexual harassment. Plaintiff later made a formal report to Lumio's HR
12 Department regarding Defendant Rhoton. Lumio maintains that it appropriately
13 addressed Plaintiff's complaint. Plaintiff was terminated by Lumio approximately
14 15 days later for what Lumio alleges was insubordination unrelated to her report
15 against Rhoton. Plaintiff contends that her termination was unlawful and that she
16 was subjected to gender discrimination, a hostile work environment, retaliation,
17 wrongful termination in violation of public policy and violation of the Equal Pay
18 and Opportunities Act.

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5. A preferred trial date and estimated length of trial.

The Parties prefer a trial date beginning on or around April 22, 2024.

The parties expect the trial to last 3–4 days.

6. Anticipated motions.

One or more of the Parties expect to file motions for summary judgment. The Parties also expect to file standard pre-trial motions such as motions in limine. Discovery motions (i.e., motions to compel, motion for protective order, motions to extend the discovery period) may be filed as necessary.

7. Arrangement for Initial Disclosures.

The Parties agree to exchange Initial Disclosures on or before May 9, 2023.

8. A proposed discovery plan as discussed in Fed. R. Civ. P. 26(f).

A. Time and platform for exchange of e-discovery.

The Parties intend to exchange e-discovery by way of e-mail and/or secure file-sharing. E-discovery shall be exchanged in conformance with the Court's forthcoming Scheduling Order.

B. The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues.

The Parties expect that discovery may be needed with respect to the following issues, though this list is not intended to be exhaustive: Plaintiff's

employment history and any employment following her termination from Lumio; Plaintiff's interactions and relationship with Defendant Rhoton; Plaintiff's conduct before, during, and after her formal complaint about Defendant Rhoton; Plaintiff's work performance while employed by Defendant Lumio; Defendant Lumio's employment practices; and Defendant Lumio's policies on discrimination.

Discovery should be completed consistent with the Court's forthcoming Scheduling Order. Discovery need not be conducted in phases, nor limited to or focused on particular issues.

C. Any issues about the disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced.

The Parties anticipate entering into an ESI Agreement that will govern the format and procedures for electronically stored information.

D. Any issues about claims of privilege or of protection as trial-preparation materials, including—if the parties agree on a procedure to assert these claims after production—whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502.

The Parties anticipate agreeing on a procedure to assert claims of privilege after production and will submit a proposed order under Fed. R. Evid. 502.

E. *What changes should be made in the limitations on discovery imposed under these rules or by local rule, and what other limitations should be imposed.*

1 The Parties are not aware of any changes that should be made in
2 the limitations on discovery imposed under these rules or by local rule, or any
3 other limitations related to discovery.
4

5 F. *Any other orders that the court should issue under Rule 26(c) or*
6 *under Rule 16(b) and (c).*

7 The Parties will work together to submit a Protective Order for the
8 Court's approval. The Parties do not anticipate the need for other orders under
9 Rule 16(b) or (c).
10

11 9. **Whether class certification is alleged.**

12 No.
13

14 10. **Whether the case involves a beneficial interest claim of a minor or**
15 **incompetent that requires appointment of a Guardian ad litem.**

16 No.
17

18 11. **The appropriateness of special procedures such as consolidation**
19 **of actions for discovery or pretrial, reference to a master or**
20 **magistrate, to arbitration, to the Judicial Panel on Multi-district**
21 **Litigation, or application of the procedures included in the**
22 **Manual for Complex Litigation.**

23 The Parties do not expect any special procedures to be necessary.
24

25 12. **Modification of the standard procedures due to the relative**
26 **simplicity or complexity of the action or proceeding.**

27 The Parties do not expect modification of the standard procedures to
be necessary.
28

1 13. **Feasibility of bifurcation, or otherwise structuring sequence of the**
2 **trial.**

3 The Parties do not expect bifurcation or other trial sequencing
4 modifications to be necessary.

5 14. **Whether there will be some point in the litigation when the parties**
6 **can conduct meaningful settlement discussions or participation in**
7 **another form of alternative dispute resolution.**

8 The Parties have previously communicated with respect to the
9 possibility of settlement and expect those discussions to continue. The Parties may
10 be open to mediation following the completion of discovery.

12 15. **Identification of any issues that should be certified to the state**
13 **Supreme Court.**

14 The Parties are not aware of any issues that should be certified to the
15 state Supreme Court.

17 16. **Any other matters which may be conducive to the just, efficient,**
18 **and economical determination of the action or proceeding,**
19 **including the definition or limitation of issues.**

20 The Plaintiff's husband has separately made allegations against the
21 Defendants which relate to and/or arise from Plaintiff's claims. That case has not
22 yet been initiated in this Court. However, assuming that case is filed in this Court,
23 the Parties expect that any settlement would include the resolution of both cases.

Respectfully submitted this 21st day of April, 2023.

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Attorneys for Defendants

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2023, I electronically filed the foregoing with the clerk of the Court using the CM/ECF system which will send notification of such filing to the parties registered in the Court's CM/ECF system.

DATED this 21st day of April, 2023.

Kilpatrick Townsend & Stockton, LLP

By: s/ Jeremy Black
Jeremy Black